



Signed and Filed: September 16, 2009

A handwritten signature in dark ink, appearing to read "T. E. Carlson", is written over a horizontal line.

THOMAS E. CARLSON
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re)	Case No. 09-30863 TEC
)	
DAVID SALMA,)	Chapter 7
)	
)	
Debtor.)	
)	
LEW JENKINS and LINDA JENKINS, as)	Adv. Proc. No. 09-3126 TC
Trustee of the Jenkins Trust U/A/D)	
1/15/98 and JACK H. FRESKOS,)	
beneficiary of IRA 042640 at)	
WESTAMERICA,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
DAVID SALMA, RUBEN Q. PICARDO,)	Date: September 18, 2009
SEATTLE BLOCK, LLC, FATON BINAKU,)	Time: 9:30 a.m.
and MARION ZABORSKI, and DOES 1-10,)	Ctrm: 235 Pine St., 23rd Fl.
)	San Francisco, CA
Defendants.)	
)	

TENTATIVE RULING RE MOTION TO DISMISS COMPLAINT

(1) The court is inclined to grant the motion to dismiss with leave to amend within ten days of entry of the order granting the motion to dismiss.

(2) It appears that Plaintiffs do not have standing to prosecute a claim for fraudulent transfer because trustee has not

TENTATIVE RULING RE MTN.
TO DISMISS COMPLAINT

1 abandoned fraudulent transfer claims to Plaintiffs.

2 (3) If trustee abandons claims for fraudulent transfer to
3 Plaintiffs or if trustee hires Plaintiffs' counsel to prosecute
4 such claims on behalf of the estate, the court will at that time
5 address any motion to amend the complaint to add a claim for
6 fraudulent transfer.

7 (4) Leave to amend should be allowed because Plaintiffs have
8 pled facts that may support a claim for denial of discharge if
9 Debtor made the alleged fraudulent transfers within one year of the
10 petition date. Compl., ¶¶ 28, 29; 11 U.S.C. § 727(a)(2)(A).

11 ****END OF TENTATIVE RULING****

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